

**MINUTES**  
**NEVADA STATE BOARD OF OPTOMETRY**  
**REGULAR MEETING**

May 13<sup>th</sup>, 2005  
University of Nevada, Las Vegas  
Meeting Room A, Thomas & Mack Center  
4505 Maryland Parkway  
Las Vegas, Nevada 89154

Dr. Alleman asked for public comment. There was no public comment.

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 10:00 o'clock A.M. on May 13<sup>th</sup>, 2005, in Meeting Room A, Thomas & Mack Center, University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President  
Brad C. Stewart, O.D., Board Member  
George Bean, Board Member  
Judi Kennedy, Executive Director  
Mark Marsh, Esq.

Also present were:

Lesa Davis, O.D.  
Gregory Cortese, Esq., Counsel for Dr. Davis  
Amel Y. Afifi, O.D.  
Alyssa Harvey, Executive Director,  
Nevada Optometric Association

The minutes of the Board's April 8<sup>th</sup>, 2005, meeting were presented for approval. Dr. Alleman indicated the reference to "Dr. Marsh," in the second full paragraph on Page 3 of the Minutes should be changed to "Mr. Marsh." With that correction made, Dr. Stewart moved the minutes be approved. Mr. Bean seconded the motion. The vote was unanimous.

Noting the presence of Dr. Amel Y. Afifi , Dr. Alleman directed the Board's attention to Agenda Item 4, the Complaint of Judi D. Kennedy, as Executive Director vs. Amel Y. Afifi, O.D.

Dr. Alleman stated the complaint was filed as a result of Dr. Afifi's failure to renew her license by the statutory deadline of February 28<sup>th</sup>, 2005, and her continuing to practice optometry subsequent to her receipt of notice from the Board that her license had been suspended. Dr. Afifi confirmed she had received the notice of the suspension of her license from the Board. Dr. Afifi admitted she had not taken the steps necessary to cure the suspension of her license, adding however, that she had sent, to the Board office, the required continuing education information the day prior to the meeting.

Dr. Afifi described several medical and personal situations which she contended had prevented her from renewing her license by the statutory deadline. Dr. Afifi also stated she had not been seeing patients, that her schedule had been cut back, and that she was only available for consultation and/or in emergency situations. Dr. Stewart responded that the Board had, by way of investigation, obtained irrefutable proof that Dr. Afifi had seen a patient and conducted an eye exam, on a non-emergency pre-scheduled basis. Dr. Alleman reiterated that Dr. Afifi's license had been suspended, that she had received proper notice from the Board, that she had failed to cure the suspension, and that she had continued to see patients.

Under questioning by the Board, Dr. Afifi admitted: [1] she had continued to practice optometry subsequent to the time she had received notice from the Board that her license had been suspended for failure to renew; [2] she had not taken any steps to cure the suspension of her license; [3] she had not attempted to contact the Board office and request an extension of time within which to submit her required continuing education

information; and [4] she understood she was in violation of Chapter 636 of the Nevada Revised Statutes for failing to renew as required, and for continuing to see patients after the suspension of her license.

Dr. Afifi expressed concern that a disciplinary action by the Board would appear on her record. The Board, its counsel, and Dr. Afifi discussed the filing of an accusation based on a finding that the complaint has merit. Mr. Marsh directed Dr. Afifi's attention to NRS 636.325, which requires all discipline taken by the Board must be public record. Dr. Afifi stated she would be willing to pay an administrative fine, and that it was her desire to stipulate to a disposition of the complaint prior to the filing of a formal accusation. Dr. Afifi was advised she had the right to be represented by counsel. Dr. Afifi re-stated she wished to dispose of the complaint by stipulation. After further discussion, Dr. Stewart moved the complaint be disposed of by Dr. Afifi agreeing to cure the suspension of her license, agreeing that her license be placed in a probationary status for a period of two [2] years, and agreeing to the assessment of an administrative fine in the amount of \$3,000. Dr. Afifi indicated she agreed with the proposed discipline. Mr. Bean seconded the motion. The vote was unanimous.

The Board next considered Agenda Item 5, the Accusation of Judi D. Kennedy, as Executive Director vs. Lesa D. Davis, O.D. Dr. Alleman thanked Dr. Davis and her attorney, Mr. Cortese, for attending the meeting.

The Board began its discussion with Dr. Davis by making inquiries regarding her relocating her practice locations. Dr. Davis advised the Board that Lasik Nevada had relocated, that she was still practicing under the assumed name of "Lesa D. Davis, O.D. at Lasik Nevada," and that she had requested the necessary documentation to update the current addresses for her assumed name.

The Board questioned Dr. Davis regarding documents she had furnished, including but not limited to, bank statements, sublease agreement, and co-management agreement. Mr. Cortese offered that Dr. Davis is an independent doctor of optometry, that she pays rent for the space she occupies at Lasik Nevada, and that she is not employed by the ophthalmologist at Lasik Nevada. The Board questioned Dr. Davis further about how money is received from her patients and deposited to her accounts. There was discussion about the portion of the surgical fee that is received by Dr. Davis. Dr. Davis stated she could change her fee at any time, without the approval or consent of the surgeon. Dr. Davis agreed to furnish the Board a copy of her sublease agreement at her new location as that had been omitted from the documents furnished.

Dr. Alleman advised Dr. Davis the Board was concerned that her practice was being controlled by someone else, and that she was not, as required by law, an independent optometrist. Mr. Cortese agreed with Dr. Alleman's assertion, but stated the situation had been corrected. Dr. Stewart pointed out had the Board been furnished the documents before it, when first requested two years prior, the matter would not have lingered as long as it had. Dr. Stewart also expressed his frustration relative to the continuous appearances of Dr. Davis before the Board. Dr. Alleman agreed, stating the matter was now to the point it could be finalized, but that he believed there should be a fine assessed and a period of probation. Dr. Stewart stated he felt Dr. Davis should be required, prior to the time of a change of address, to furnish the Board with copies of her sublease and co-management agreements so the Board would be assured Dr. Davis was continuing to be compliant with the law. Mr. Cortese expressed the desire of his client, that no probationary period be imposed. Mr. Cortese continued, stating the required documents would be furnished within a certain period after the move. Mr. Bean asked why there would be any necessity

for delay in furnishing the documents, when they should be prepared prior to any move. Mr. Marsh stated he believed the sublease and co-management agreements should be submitted to the Board at the time Dr. Davis gave written notice of her change of address.

The meeting recessed at 11:05 o'clock a.m. The meeting reconvened at 11:15 o'clock a.m.

Dr. Alleman advised Dr. Davis and Mr. Cortese that the Board, instead of a probationary period, could publicly reprimand Dr. Davis. Dr. Alleman continued, stating in addition to the public reprimand, Dr. Davis would be assessed an administrative fine in the amount of \$2000.; Dr. Davis would reimburse the Board for its legal fees incurred; and that prior to any change of address, Dr. Davis would be required to furnish copies of her sublease and co-management agreements, for any new location, for a period of three years.

If Dr. Davis did not relocate her practice in a given year, she would be required to furnish copies of the documents in use on or before January 1<sup>st</sup> of each year, commencing with January 1<sup>st</sup>, 2006, and continuing until January 1<sup>st</sup>, 2008. Dr. Stewart asked if the disposition of the accusation would be in the form of a stipulation. Dr. Alleman replied it would.

Dr. Stewart moved the proposed stipulation be approved by the Board if Dr. Davis and Mr. Cortese agreed to the terms. Mr. Bean asked if Dr. Davis and Mr. Corteses agreed to the terms. They replied in the affirmative. Mr. Bean seconded the motion. The vote was unanimous.

The Board moved back to Agenda Item 3, the Accusation of Judi D. Kennedy, as Executive Director vs. Mark Todd Hunt, O.D. Ms. Kennedy advised the Board that Dr. Hunt had remitted the proposed \$200 administrative fine. Mr. Bean moved the Accusation

be dismissed based on resolution. Dr. Stewart seconded the motion. The vote was unanimous.

Ms. Kennedy reported to the Board regarding bills being tracked by the Board's lobbyist.

The Board scheduled a regular telephone meeting for Wednesday, July 13<sup>th</sup>, 2005.

The Board tentatively scheduled a regular meeting for Friday, September 23<sup>rd</sup>, 2005, in Elko, Nevada.

Dr. Alleman asked for public comment. There was no public comment.

Dr. Stewart moved the meeting adjourn. Mr. Bean seconded the motion. The meeting adjourned at 11:35 o'clock a.m.